

## REMARKS

### Claim Status

Claims 21-40 are pending. Claims 24, 28, 34, 37 and 38 were previously withdrawn from consideration. Claims 21-22, 25-26, 29, 30-32, 35-36 and 39-40 stand rejected under 35 USC § 102(b). Claims 23, 27 and 33 stand rejected under 35 USC § 103(a). With this response, claims 21 and 31 are amended and no claims are withdrawn, canceled, or added.

### Rejections Under 35 USC § 102 Over Lodge

Claims 21-22, 25-26, 29, 31-32, 35-36 and 39 stand rejected under 35 USC § 102(b) as being anticipated by Lodge (WO 97/47264 A1).

Independent claim 21, as currently amended, recites in part “A front-fastenable disposable wearable absorbent article [with] an intermediate stretch region disposed primarily in the back waist region.” Independent claim 31, as currently amended, recites in part “A pant-type disposable wearable absorbent article [with] an intermediate stretch region disposed primarily in a back waist region.”

The Office Action cited the Lodge reference against claims 21 and 31. In particular, the Office Action cited elongated zone 52 of the Lodge reference against the intermediate stretch zone in claims 21 and 31. (Point 7, pages 3-5.)

However, from the Applicant’s review, the Lodge reference does not appear to disclose that the elongated zone 52 is “disposed primarily in [a] back waist region” as recited in part in each of claims 21 and 31, as currently amended. As a result, the Lodge reference does not disclose each and every element of each of claims 21 and 31.

Therefore, the Lodge reference does not anticipate claim 21 or claim 31, or the claims that depend therefrom. For this reason, the Applicant respectfully requests reconsideration and withdrawal of the 102 rejections to claims 21 and 31 and the claims that depend therefrom.

Rejections Under 35 USC § 102 Over Buell

Claims 21, 29-31 and 39-40 stand rejected under 35 USC § 102(b) as being anticipated by Buell, et al. (US 5,221,274).

Independent claim 21, as currently amended, recites in part “A front-fastenable disposable wearable absorbent article [with] a first side ear stretch region having a first side ear lateral tensile modulus that is greater than or about equal to the intermediate lateral tensile modulus.” Independent claim 31, as currently amended, recites in part “A pant-type disposable wearable absorbent article [with] a first side panel lateral tensile modulus that is greater than or about equal to the intermediate lateral tensile modulus.”

The Office Action cited the Buell reference against claims 21 and 31. In particular, the Office Action stated that:

“Examiner’s position is based upon Buell’s disclosure that the elastic waist feature contains both the backsheet material and an elastomeric material whereas the first side ear contains only the backsheet and topsheet materials. An elastomeric material by its nature has a lower tensile modulus than a non-elastomeric material, thus the first side ear necessarily has a higher modulus than the intermediate region.”

(Page 6, point 8.) From the Applicant’s review, it appears that the Office Action is arguing that the embodiment of the Buell reference contains side ears with inherently higher tensile modulus.

The Applicant points out that the Examiner’s position does not fully account for the structures disclosed in the Buell reference. The waist feature also includes a resilient member 77. (Col. 7, lines 36-43.) The side panels are also elastic. (Col. 7, lines 2-13.) Since the Office Action does not account for these structural aspects, the Office Action has not demonstrated that the side panels of the Buell reference necessarily have a higher modulus than the elastic waist feature.

Therefore, the Lodge reference does not anticipate claim 21 or claim 31, or the claims that depend therefrom. For this reason, the Applicant respectfully requests reconsideration and withdrawal of the 102 rejections to claims 21 and 31 and the claims that depend therefrom.

Rejections Under 35 USC § 103 Over Lodge

Claims 23, 27 and 33 stand rejected under 35 USC § 103(a) as being unpatentable over Lodge (WO 97/47264 A1).

As discussed above, the Lodge reference does not appear to disclose an intermediate stretch region “disposed primarily in [a] back waist region” as recited in part in each of claims 21 and 31, as currently amended. From the Applicant’s review, the Lodge reference also does not appear to describe, teach, or suggest an intermediate stretch region “disposed primarily in [a] back region.” As a result, the Lodge reference does not describe, teach, or suggest each and every element of each of claims 21 and 31.


Therefore, the Lodge reference does not obviate claim 21 or claim 31, or the claims that depend therefrom. For this reason, the Applicant respectfully requests reconsideration and withdrawal of the 103 rejections to claims 23, 27, and 33 that depend therefrom.

Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the cited references. Accordingly, the Applicant respectfully requests reconsideration of this application and allowance of the pending claims.

Respectfully submitted,

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